



## ONE PAGE BACKGROUND ON AFRICA AIDS DRUGS AND CLINTON EXECUTIVE ORDER

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### **Bush Reviewing Executive Order Allowing International Importation of Generic HIV/AIDS Drugs**

President Bush may reverse former President Clinton's executive order that allows sub-Saharan African governments to import generic versions of HIV/AIDS medications from other countries where the drugs are manufactured while still under U.S. patent, *Bloomberg News/Pittsburgh Post-Gazette* reports. According to drug companies such as GlaxoSmithKline, the "world's largest producer of AIDS drugs," as well as Merck & Co., Bristol-Myers Squibb Co. and Roche Pharmaceuticals, the executive order, signed by Clinton in May, "changed the way their drugs are priced" (Rosenkrantz, *Bloomberg News/Pittsburgh Post-Gazette*, 1/22). According to the order, the United States "shall not seek, through negotiation or otherwise, the revocation or revision of any intellectual property law or policy" of sub-Saharan African countries provided that they promote "access to HIV/AIDS pharmaceuticals or medical technologies for affected populations in that country." In essence, the order holds African countries to the "less stringent standard of a World Trade Organization agreement on intellectual property protection," instead of U.S. trade laws concerning patents (*Kaiser Daily HIV/AIDS Report*, 5/11/00).

**From 5/11/2000**

### **AFRICA TRADE BILL: Clinton Issues Executive Order Relaxing Intellectual Property Rights**

Almost one week after lawmakers stripped Sens. Dianne Feinstein (D-Calif.) and Russell Feingold's (D-Wis.) compulsory licensing and parallel importing provision from the African-Caribbean Basin Initiative trade bill, President Clinton yesterday signed an executive order affording sub-Saharan governments the "flexibility to bring life-saving drugs and medical technologies to affected populations" (Clinton letter text, 5/10). According to the order, the United States "shall not seek, through negotiation or otherwise, the revocation or revision of any intellectual property law or policy" of sub-Saharan African countries provided that they that promote "access to HIV/AIDS pharmaceuticals or medical technologies for affected populations in that country" (Executive Order text, 5/10). U.S. Trade Representative Charlene Barshefsky said, "Given the devastating impact of AIDS, the United States will not require or negotiate restrictive rules in the intellectual property rights area" (Abrams, *AP/Philadelphia Inquirer*, 5/11). Thus, the United States will not invoke U.S. trade laws concerning patents, but instead will hold sub-Saharan countries "to the less stringent standard of a World Trade Organization agreement on intellectual property protection." The United States negotiated a similar deal with South Africa last year (Burgess, *Washington Post*, 5/11). The order also states that the United States will "encourage sub-Saharan African nations to take steps to address the underlying causes of the HIV/AIDS crisis and that the United States should work with individual countries to assist them in developing effective public-education campaigns" (*AP/Philadelphia Inquirer*, 5/11).

AIDS activists praised the president's action, while the pharmaceutical industry and some lawmakers criticized it. Jeff Jacobs, director of governmental affairs for AIDS Action, said, "With the stroke of his pen, Bill Clinton has signaled that the country is seriously engaged in the global war on AIDS. America can and should do more, but this is a bold, important first step" (AIDS Action release, 5/10). Paul Davis of ACT-UP Philadelphia also lauded the president, but "faulted [the order] for only covering sub-Saharan Africa and AIDS drugs." He said, "There are more killers than HIV/AIDS and lots of folks who have AIDS in other countries." But Alan Holmer, president of the Pharmaceutical Research and Manufacturers of America, said that the move sets "an undesirable and inappropriate precedent, by adopting a discriminatory approach to intellectual property laws, and focusing exclusively on pharmaceuticals." Holmer added that pharmaceutical companies "continue to play an essential role in pioneering applied research and development, our best hope of winning the war against AIDS. Strong intellectual property protection is the only way to encourage this research" (*Washington Post*, 5/11). Senate Majority Leader Trent Lott (R-Miss.) also indicated his disapproval of the plan, saying, "There seems to be a pattern now of [Clinton] doing executive orders that exceed what he should be doing. That should be done legislatively. He doesn't make the laws. And so I would hope that he would be careful about doing that" (Lewis, *New York Times*, 5/11).

*Kaiser Daily HIV/AIDS Report*